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IN THE

SUPREME COURT

OF THE UNITED STATES

October Term, 1972

No. 72-5521

In the Matter of
Robert Satiacum
Petitioner

vs.

The State of Washington
Respondent

Petition for Writ of Certiorari to the
Supreme Court of the State of Washington

JACK E. TANNER
Attorney for Petitioner.
817 Puget Sound Bk. Bldg., Tacoma Washington 98402. Tel. 383-3568

Print Northwest

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IN THE

SUPREME COURT

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October Term, 1972

No. _____

In the Matter of
Robert Satiacum
Petitioner

vs.

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Respondent

Petition for Writ of Certiorari to the
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APPLICATION is hereby made by Jack E. Tanner, attorney of record for the above named petitioner in this case for a Writ of Certiorari to review the final order of the Supreme Court of the State of Washington.

OPINION BELOW

The opinion of the Supreme Court of Washington was entered on April 13, 1972, and a copy is appended hereto at page 12. The order denying the Petition for Reconsideration was entered on July 19, 1972, and a copy is appended hereto at page 17. The final order of the Supreme Court of the State of Washington, The Remittitur, was entered on July 20, 1972, and is appended hereto at page 18.

JURISDICTION

Petitioner submits that this court has jurisdiction of this matter under 28 U.S.C. Section 1257 (3), a copy of which is appended hereto at page 20.

QUESTIONS PRESENTED

(1) Does an Indian Reservation created by an Act of Congress cease to exist, whether or not officially terminated by an Act of Congress, when the land previously constituting the reservation has virtually all been sold to non-Indian owners?

(2) Can the courts of the State of Washington terminate the Puyallup Indian Reservation by court edict?

(3) Can the courts of the State of Washington terminate the Puyallup Indian Tribe by court edict?

(4) Is an individual Indian of Puyallup Tribal Descent and an enrolled member of the Puyallup Tribe, while exercising his tribal fishing rights within the original Puyallup Reservation boundaries subject to state police power jurisdiction?

STATEMENT

The petitioner herein was charged by information number 39491 in the Superior Court of Pierce County, Washington, with three misdemeanors. The misdemeanors were (1) possessing salmon taken from a salmon preserve for commercial purposes; (2) unlawful waste or destruction of food fish; and (3) unlawfully carrying a firearm. The evidence at the time of trial was uncontradicted that petitioner was an Indian and a member of the Puyallup Indian Tribe on the Puyallup River. (Statement of Facts, Pages 111, 112, 113, 114).

Petitioner moved, during trial (Statement of Facts 142) and after the verdict (Statement of Facts 164) to dismiss the charges against petitioner because of the lack of jurisdiction by the trial court. The motion as to jurisdiction was based upon the fact that petitioner was and is a duly enrolled member of the Puyallup Indian Tribe, and that he was exercising his tribal fishing rights at the time of his arrest, under the terms of the treaty of Medicine Creek of 1855, a copy of which is appended hereto at page 21. That in view of his treaty rights the Superior Court of Pierce County, Washington, lacked jurisdiction over him because of Article VI of the United States Constitution, the supremacy clause, a copy of which is appended hereto at page 28.

The trial court dismissed counts one and three of the information, but petitioner was found guilty of count two, the unlawful waste or destruction of food fish. He was sentenced to pay a fine of Seventy-five Dollars. Notice of appeal was timely given to the Supreme Court of the State of Washington. Two assignments of error on appeal were submitted to the Supreme Court. (1) The Trial Court erred in not granting appellants' motion to suppress the evidence, and (2) The Trial Court erred in not granting appellants' motion to dismiss the information because of lack of jurisdiction as to the case (Statement of Facts 141, 142). The motion to suppress evidence was made because of the lack of jurisdiction of the arresting officers on "Indian Land".

The parties entered into a stipulation and agreement as to Statement of Facts. The State did file a verbatim Statement of Facts in the case. But the evidence was at the time of trial, and is still uncontra-

dicted that the petitioner is an Indian, an enrolled member of the Puyallup Indian Tribe, and was fishing at the usual and accustomed fishing grounds and stations on the Puyallup River at the time of his arrest on July 29, 1970. The evidence in the case is uncontradicted that at the time of his arrest petitioner was within the original geographical area of the Puyallup Indian Reservation. (Statement of Facts 122).

On April 13, 1972, the Supreme Court of the State of Washington upheld petitioner's conviction in the trial court. Petitioner then timely filed his Petition for Reconsideration. The Petition for Reconsideration was denied.

REASONS FOR ALLOWANCE OF WRIT

(1) The history of turmoil and litigation between the State of Washington and Indian People in the State of Washington over treaty rights has been going on for many years. Substantial federal questions are raised in this case, such as does the state have jurisdiction over an Indian asserting treaty rights on his reservation, the authority of the State of Washington to terminate the Puyallup Indian Tribe by court edict, and the authority of the State of Washington to declare that there is no longer a Puyallup Indian Reservation and can an Indian Reservation be terminated other than by an express Act of Congress. The issues are of great importance to all parties concerned, and only this court can resolve them.

This court has on one occasion reviewed one of the provisions of the Treaty of Medicine Creek. Article III of the Treaty of Medicine Creek was before this court in the case of the Puyallup Tribe, etc. v. Department of Game of Washington et al. (No. 247) 391

U.S. 392. In that case this court said in footnote 1, "whether in light of this history the reservation has been extinguished is a question we do not reach". The court also said in that case that "While the Treaty of Medicine Creek created a reservation for these Indians, no question as to the extent of those reservation rights, if any, is involved here", footnote 1. The very existence of the Puyallup Indian Reservation, and the extent of those reservation rights are the issues in this case.

Petitioner submits that this court in the case cited above was only considering Article III of the Treaty as to off-reservation fishing by the Indians. The decision of this court in that case, that the State of Washington could regulate the manner of fishing and restricting commercial fishing in the interest of conservation is not applicable to this case. Petitioner at the time of his arrest at the mouth of the Puyallup River was well within the exterior geographical boundaries of the Puyallup Indian Reservation set by the terms of the Treaty of Medicine Creek and Executive Orders. There is no evidence to deny this fact. This case does not involve off-reservation Indian fishing. Petitioner is unaware of any statute or case law that gives the State of Washington jurisdiction to apply state law to on-reservation Indian fishing, nor did the State Court cite any authority applicable to this case.

(2) The Supreme Court of the State of Washington said in the case of *Department of Game v. Puyallup Tribe, Inc.* 70 Wn. 2d 245, 422P. 2d 754 (1967), that the Puyallup Indian Reservation has ceased to exist. The opinion in that case is the basis for the court's opinion in the case now before this court. There is no basis in law to support the opinion in either case.

The Puyallup Reservation was established by Article II of the 1854 Medicine Creek Treaty, ratified by Congress on March 3, 1855, 10 Stat. 1132. on authority of Article VI of the Treaty the Puyallup Reservation was enlarged by Executive Order of September 6, 1873, a copy of which is appended hereto at page 29. In the Executive Order of 1873 it was pointed out that "This would give them a mile of water frontage directly north of Puyallup River and free access to the waters of Commencement Bay at that point". All of the "usual and accustomed grounds and stations" referred to in Article III of the Treaty are within the exterior boundaries of the Puyallup Reservation. Petitioner is unable to find any authority to support the decision that the Puyallup Reservation has ceased to exist. The obvious question is when did it cease to exist? Petitioner is unaware of any Act of Congress that has terminated the reservation, or any decision of this court that terminated the Reservation. Nor has the Supreme Court of the State of Washington cited any authority. In fact, the decision in this case is contrary to law.

Whenever Congress has terminated an Indian Reservation it has always done so expressly. The Termination Acts in 25 U.S.C.A. Chapter 14 provides for the Termination of Indian Reservations. In *Seymour v. Superintendent of Washington State Penitentiary*, (1962) 82 S.C.T. 424, 368 U.S. 351, this court ruled that the termination of a reservation or removal of lands from the reservation must be done expressly by the Congress and not impliedly.

In footnote 1 of Case (No. 247), *supra*, this court pointed out that in 1887 Congress passed the General Allotment Act (24 Stat. 388) authorizing the division of the reservation land among the individual Indians.

By the Act of April 28, 1904, 33 Stat. 565, Congress gave the consent of the United States to the removal of prior restrictions on alienation by these Indians. Other Acts were passed by Congress providing for the sale of Puyallup Lands, Act of June 12, 1906, 34 Stat. 325, 377; the Act of March 1, 1907, 34 Stat. 1015, 1050, and the Act of August 11, 1939, 53 Stat. 1405. But, nothing in the above cited Acts terminates or constricts the reservation or its boundaries. The Supreme Court of the State of Washington said at page 2 of the opinion in this case, that "Regardless of whether the reservation has been officially and finally terminated by Act of Congress, we are convinced that the Federal Jurisdiction made applicable to Indian County by 18 U.S.C.A. 1152 has ceased to exist because the Puyallup Indians have sold virtually all of their lands, and because any distinct Indian Community recognized and treated as such by the United States Government has ceased to exist", is contrary to law.

(3) In *Department of Game v. Puyallup Tribe, supra,* the State Supreme Court said "We are satisfied that so long as the United States Government, through its appropriate agencies, continues to recognize the existence of the Puyallup Tribe of Indians and its tribal roll, as they clearly do. The Superior Court for Pierce County cited without jurisdiction in making a judicial determination of the tribe's termination. Historically and uniformally the termination of federal supervision of an Indian Tribe has been accomplished by the Congress through enactment of legislation". The court has now reversed itself but cites no legal authority for so doing. Petitioner can find no authority nor does the opinion cite any to support the state court's opinion that the distinct Puyallup Indian Community has ceased to exist. This issue was never raised in the

trial court. Again an obvious question presents itself, and that is when did the distinct Puyallup Indian Community cease to exist?

(4) Since petitioner at the time of his arrest was exercising his fishing rights as a treaty Indian on the Puyallup Reservation. Petitioner would submit that 18 U.S.C. (1952 ed.) 1152 and 18 U.S.C. (1952 ed.) 1151 are applicable to this case. Did the Superior Court of Pierce County, Washington, have jurisdiction? "Indian County" is defined in 18 U.S.C. 1151 as follows:

"Except as otherwise provided in Sections 1154 and 1156 (which are not pertinent to the question before us) of this title, the term 'Indian Country' as used in this chapter means, (a) all land within the limits of any Indian Reservation under the jurisdiction of the United States Government notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation".

Laws governing are provided for in 18 U.S.C. 1152 which is as follows:

"Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian Country."

CONCLUSION

Petitioner submits that at the time of his arrest herein he was in Indian Country known as the Puyallup Indian Reservation (Statement of Facts, Pages 9, 10, 13, 51), and therefore any acts committed thereon were outside the jurisdiction of the Superior Court of Pierce County, Washington. Another question would seem

obvious here. If there once was a Puyallup Indian Reservation, and a Puyallup Indian Tribe at what time and specific date did the petitioner become subject to the police power jurisdiction of the State of Washingg-ton? Just when did the statute under which he was convicted become applicable to him? Petitioner is entitled to the protection of the due process and equal protection clause of the Fourteenth Amendment to the United States Constitution, a copy of which is appended hereto at page 32.

Petitioner respectfully submits that the petition for a Writ of Certiorari should be granted.

JACK E. TANNER,

Counsel for Petitioner.

APPENDIX A

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

[No. 42184 En Banc Apr. 13, 1972]

THE STATE OF WASHINGTON, *Respondent*,

v.

ROBERT SATIACUM, *Appellant*.

[1] States—Indians—Reservation—Termination. An Indian reservation ceases to exist, whether or not officially terminated by act of Congress, when the land previously constituting the reservation has virtually all been sold to private non-Indian owners and there is no longer in existence any distinct Indian community recognized and treated as such. An individual Indian of that tribal descent within the indicated geographical area is subject to state police power jurisdiction in common with other citizens.

[2] Appeal and Error—Assignments of Error—Argument in Support—Necessity. An appellant seeking review of a criminal case has the burden and obligation of examining the record and presenting to the court argument and authority in support of his contentions.

[3] Fish—Indians—Treaties—Right to Fish in Common With Others—Unlawful Waste of Fish. The right guaranteed by treaty to any Indian to fish "in common with all citizens of the Territory" does not provide a basis for excusing his violation of a statute prohibiting unlawful waste or destruction of food fish.

FINLEY, J.—This is an appeal from a conviction for the wasting of food fish in violation of RCW 75.12.120. On July 29, 1970, Robert Satiacum, a member of the Puyallup Indian Tribe, was arrested while fishing in the Puyallup River Salmon Preserve. He was subsequently charged with (1) possessing salmon taken from a salmon preserve for commercial purposes, (2) unlawful waste or destruction of food fish, prohibited by RCW 75.12.120, and (3) unlawfully carrying a firearm. At trials, the court granted defendant Satiacum's motion to dismiss charges (1) and (3), but denied the motion as to charge (2). Defendant also moved to suppress any and all evidence against him and to dismiss the information on the ground that the trial court lacked jurisdiction in the matter. Both motions were denied. The jury found the defendant guilty of unlawful waste or destruction of food fish. On November 17, 1970, the trial court denied defendant's motion for a new trial and imposed sentence, fining Mr. Satiacum $75.00 and court costs. He has appealed.

Appellant first contends that the trial court erred in failing to dismiss the information in this case for lack of jurisdiction. Though his brief on appeal provides neither authority nor reasoning to support his contention, he claims that our statement in *Department of Game v. Puyallup Tribe, Inc.*, 70 Wn. 2d 245, 442 P.2d 754 (1967), that the Puyallup Indian Reservation has ceased to exist, is wrong.

We do not agree. For purposes of determining the jurisdiction of state or federal courts, the Puyallup Indian Reservation *has* ceased to exist. The lands which constituted the reservation (with the exception of two small tracts presently being used as cemeteries totaling 22 out of the original 18,000 acres) have been

sold to non-Indian citizens of this state pursuant to Act of April 28, 1904, ch. 1816, 33 Stat. 565 (1904), which authorized the Indians to convey their alloted lands in fee simple free of all restrictions. Regardless of whether the reservation has been officially and finally terminated by act of Congress, we are convinced that the federal jurisdiction made applicable to "Indian Country" by 18 U.S.C.A. §1152 has ceased to exist because the Puyallup Indians have sold virtually all of their lands, and because of any distinct Indian community recognized and treated as such by the United States government has ceased to exist. *See United States v. Sandoval*, 231 U.S. 28, 46, 58 L. Ed. 107, 34 S.Ct. 1 (1913).

Since the Indian lands have been sold and an Indian community no longer exists within the boundaries of the former Puyallup Indian Reservation, the State of Washington may, under the circumstances of this case, exercise its police power jurisdiction over Mr. Satiacum, a Puyallup Indian, in common with its jurisdiction over all other citizens of this state. In *Seymour v. Superintendent*, 368 U.S. 351, 7 L. Ed. 2d 346, 82 S.Ct.. 424 (1962), the United States Supreme Court overruled our decision supporting state court jurisdiction over a burglary committed in the Colville Indian Reservation. The result we reach in the instant case is consistent with the ultimate decision in *Seymour*, since in that case it appears that a recognizable Indian community had continued to exist on the reservation land, and the continued existence of that reservation and of federal jurisdiction over it had been implicitly recognized in several subsequent congressional enactments.

Appellant also contends that the trial court erred in refusing to grant his motion to suppress all evidence

against him in this case because he had not committed a crime of any kind at the time of his arrest. Again, there is no argument or legal authority in appellant's brief to support this contention. It is appellant's burden and obligation to examine the record and to present to this court any possible grounds upon which it might be said that "appellant had not committed a crime of any kind at the time of his arrest." He has not done so; in fact, all the evidence we find in the record supports his conviction.

We note in passing that if appellant's contention is that he did not commit a crime because he was merely exercising the fishing rights guaranteed to him by the Medicine Creek Treaty, any such contention is without merit in this case. The right to fish "in common with all citizens of the Territory" guaranteed by that treaty does not include the right wantonly to waste food fish. There can be no doubt that prohibition of the wasting of food fish is a conservation measure which is "reasonable and necessary to preserve the fishery," and is well within the police power of the state of Washington. *Department of Game v. Puyallup Tribe, Inc.*, *supra* at 261.

FINLEY, J.

WE CONCUR:

HAMILTON, C.J.
HALE, J.
ROSELLINI, J.
HUNTER, J.
UTTER, J.
NEILL, J.
STAFFORD, J.
WRIGHT, J.

No. 39491, Hardyn B. Soule, J., entered November 18, 1970. *Affirmed.*

Prosecution for violation of a fishing regulation, unlawful waste of food fish, and for unlawfully carrying a firearm. Defendant appeals from a conviction and sentence for waste of food fish.

APPENDIX B

No. 42184

ORDER

DENYING

PETITION FOR REHEARING

In the Supreme Court

OF THE

STATE OF WASHINGTON

THE STATE OF WASHINGTON, *Respondent*,

vs.

ROBERT SATIACUM, *Appellant*.

The Court having considered the appellant's petition for rehearing herein together with the respondent's answer thereto,

It is ordered that the petition be and it is hereby denied.

Dated this 19th day of July, 1972.

By the Court:

ORRIS L. HAMILTON,
Chief Justice.

80 Wn. 2d 492

APPENDIX C

REMITTITUR

No. 42184

Pierce County No. 39491

IN THE SUPREME COURT

OF THE

STATE OF WASHINGTON

THE STATE OF WASHINGTON, *Respondent,*

v.

ROBERT SATIACUM, *Appellant.*

The State of Washington to: The Superior Court of the State of Washington in and for Pierce County

This is to certify that the opinion of the Supreme Court of the State of Washington filed on April 13, 1972, became the final judgment of this court in the above entitled case on May 12, 1972. This cause is remitted to the superior court from which appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to Rule 55 on Appeal, costs are taxed as follows:

No cost bill having been filed costs are deemed to have been waived. The Petition for Rehearing was denied by an order dated July 19, 1972.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Olympia, this 20th day of July, A.D. 1972.

WILLIAM L. LOWRY,
Clerk of the Supreme Court,
State of Washington.
By: REGINALD N. SHRIVEP

ff: Tanner & Burgess

Mr. Jack E. Tanner
Honorable Ronald L. Hendry
Court Reporter

Chairman, Board of Prison Terms and Paroles

APPENDIX D

28 U.S.C. 1157 (3)

Section 1257. State Courts; appeal; Certiorari

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By Writ of Certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

The purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals. As amended July 29, 1970, Pub. L. 91-358, Title 1, Section 172 (a) (1), 84 Stat. 590.

APPENDIX E

TREATY

BETWEEN

THE UNITED STATES

AND THE

NISQUALLY AND OTHER BANDS OF INDIANS

FRANKLIN PIERCE

PRESIDENT OF THE

UNITED STATES OF AMERICA

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas a treaty was made and concluded on the Sre-nah-am, or Medicine Creek, in the Territory of Washington, on the twenty-sixth day of December, one thousand eight hundred and fifty-four, between the United States of America and the Nisqually and other bands of Indians, which treaty is in the words following, to wit:

Articles of agreement and convention made and concluded on the She-nah-am, or Medicine Creek, in the Territory of Washington, this twenty-sixth day of December, in the year one thousand eight hundred and fifty-four, by Isaac I. Stevens, governor and superintendent of Indian affairs of the said Territory, on the part of the United States, and the undersigned chiefs, headmen, and delegates of the Nisqually, Puyallup, Steilacoom, Squawksin, S'Homamish, Steh-chass, T'Peek-sin, Squi-aitl, and S:-heh-wamish tribes and bands of Indians,

occupying the lands lying round the head of Puget's Sound and the adjacent inlets, who, for the purpose of this treaty, are to be regarded as one nation, on behalf of said tribes and bands, and duly authorized by them.

ART. I. The said tribes and bands of Indians hereby cede, relinquish, and convey to the United States all their right, title, and interest in and to the lands and country occupied by them, bounded and described as follows, to wit: Commencing at the point on the eastern side of Admiralty Inlet, known as Point Pully, about midway between Commencement and Elliott bays; thence running in a southeasterly direction, following the divide between the waters of the Puyallup and Dwamish or White rivers, to the summit of the Cascade Mountains; thence southerly, along the summit of said range, to a point opposite the main source of the Skookum Chuck Creek, to the coal mine; thence northwesterly, to the summit of the Black Hills; thence northerly, to the upper forks of the Sat-sop River; thence northeasterly, through the portage known as Wilkes's Portage, to Point Southworth, on the western side of Admiralty Inlet; thence around the foot of Vashon's island, easterly and southeasterly, to the place of beginning.

ART. II. There is, however, reserved for the present use and occupation of the said tribes and bands the following tracts of land, viz: The small island called Kla-che-min, situated opposite the mouths of Hammersley's and Totten's inlets, and separated from Hartstene Island by Pearl's Passage, containing about two sections of land by estimation; a square tract containing two sections, or twelve hundred and eighty acres, on Puget's Sound, near the mouth of the She-

nah-nam Creek, one mile west of the meridian line of the United States land survey, and a square tract containing two sections, or twelve hundred and eighty acres, lying on the south side of Commencement Bay; all which tracts shall be set apart and, so far as necessary, surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the tribe and the superintendent or agent. And the said tribes and bands agree to remove to and settle upon the same within one year after the ratification of this treaty, or sooner if the means are furnished them. In the meantime, it shall be lawful for them to reside upon any ground not in the actual claim and occupation of citizens of the United States, and upon any ground claimed or occupied, if with the permission of the owner or claimant. If necessary for the public convenience roads may be run through their reserves, and, on the other hand, the right of way with free access from the same to the nearest public highway is secured to them.

ART. III. The right of taking fish at all usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses on open and unclaimed lands: Provided, however, that they shall not take shell fish from any beds staked or cultivated by citizens, and that they shall alter all stallions not intended for breeding horses, and shall keep up and confine the latter.

ART. IV. In consideration of the above cession, the United States agree to pay to the said tribes and bands the sum of thirty-two thousand and five hundred dollars, in the following manner, that is to say: For

the first year after the ratification hereof three thousand two hundred and fifty dollars; for the next two years three thousand dollars each year; for the next three years two thousand dollars each year; for the next four years fifteen hundred dollars each year; for the next five years twelve hundred dollars each year, and for the next five years one thousand dollars each year; all which said sums of money shall be applied to the use and benefit of the said Indians under the direction of the President of the United States, who may from time to time determine at his discretion upon what beneficial objects to expend the same. And the superintendent of Indian Affairs, or other proper officer, shall each year inform the President of the wishes of said Indians in respect thereto.

ART. V. To enable the said Indians to remove to and settle upon their aforesaid reservations, and to clear, fence, and break up a sufficient quantity of land for cultivation, the United States further agree to pay the sum of three thousand two hundred and fifty dollars, to be laid out and expended under the direction of the President, and in such manner as he shall approve.

ART. VI. The President may hereafter, when in his opinion the interests of the Territory may require, and the welfare of the said Indians be promoted, remove them from either or all of said reservations to such other suitable place or places within said Territory as he may deem fit, on remunerating them for their improvements and the expenses of their removal, or may consolidate them with other friendly tribes or bands. And he may further, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof,

to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable. Any substantial improvements heretofore made by any Indian, and which he shall be compelled to abandon in consequence of this treaty, shall be valued under the direction of the President, and payment be made accordingly therefor.

ART. VII. The annuities of the aforesaid tribes and bands shall not be taken to pay the debts of individuals.

ART. VIII. The aforesaid tribes and bands acknowledge their dependence on the government of the United States and promise to be friendly with all citizens thereof, and pledge themselves to commit no depredations on the property of such citizens. And should any one or more of them violate his pledge, and the fact be satisfactorily proved before the agent, the property taken shall be returned, or in default thereof, or if injured or destroyed, compensation may be made by the government out of their annuities. Nor will they make war on any other tribe except in self-defence, but will submit all matters of difference between them and other Indians to the government of the United States, or its agent, for decision, and abide thereby. And if any of the said Indians commit any depredations on any other Indians within the Territory, the same rule shall prevail as that prescribed in this article in cases of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial.

ART. IX. The above tribes and bands are desirous to exclude from the reservations the use of ardent spirits, and to prevent their people from drinking the same, and, therefore, it is provided, that any Indian belonging to said tribes who is guilty of bringing liquor into said reservations, or who drinks liquor, may have his or her proportion of the annuities withheld from him or her for such time as the President may determine.

ART. X. The United States further agree to establish at the general agency or the district of Puget's Sound, within one year from the ratification hereof and to support for a period of twenty years, an agricultural and industrial school, to be free to children of the said tribes and bands, in common with those of the other tribes of the said district, and to provide the said school with a suitable instructor or instructors, and also to provide a smithy and carpenter's shop, and furnish them with the necessary tools, and employ a blacksmith, carpenter, and farmer, for the term of twenty years, to instruct the Indians in their respective occupations. And the United States further agrees to employ a physician to reside at the said central agency, who shall furnish medicine and advice to their sick, and shall vaccinate them; the expenses of the said school, shops, employees, and medical attendance, to be defrayed by the United States, and not deducted from the annuities.

ART. XI. The said tribes and bands agree to free all slaves now held by them, and not to purchase or acquire others hereafter.

ART. XII. The said tribes and bands finally agree not to trade at Vancouver's Island, or elsewhere out of the dominions of the United States; nor shall foreign

Indians be permitted to reside in their reservations without consent of the superintendent or agent.

ART. XIII. This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

In testimony whereof the said Isaac I. Stevens, governor and superintendent of Indian affairs, and the undersigned chiefs, headmen, and delegates of the aforesaid tribes and bands, have hereunto set their hands and seals at the place and on the day and year hereinbefore written.

ISAAC I. STEVENS,

Governor and Superintendent Territory of Washington.

QUI-EE-METL, SNO-HO-DUMSET, LESH-HIGH, SLIP-O-ELM, KWI-WATS, STEE-HIGH, DI-A-KEH, HI-TEN, SQUA-TA-HUN, KAHK-TSE-MIN, SONAN-O-YUTL, KL-TEHP, SAHL-KO-MIN, T'BET-STE-HEH-BIT, TCHA-HOOS-TAN, KE-CHA-HAT, SPEE-PEH, S W E - Y A H - T U M , C H A - ACHSH, PICH-KEHD, S'KLAH-O-SUM, SAH-LE-TATL, SEE-LUP, E-LA-KAH-KA, SLUG-YEH, HI-NUK, MA-MO-NISH, CHEELS, KNUTCANC, BATS-TA-KOBE, WIN - NE - YA, KLO-OUT, SE-UCH-KA-NAM, SKE-MAH-HAN, WUTS-UN-A-PUM, QUUTS-A-TADM, QUUT-A-HEH-MTSN, YAH-LEH-CHN, TO-LAHL-KUT, YUL-LOUT, SEE-AHTA-COT-SCOT, YE-TAHKO, WE - PO - IT - EE, KAH-SLD, LA'H-HOM-KAN, PAH - HOW - ST - ISH, SWE-YEHM, SAH-HWILL, SE - KWAHT, KAH - HUM - KLT, YAH-KWO-BAH, WUT-SA-LE-WUN, SAH-BA-HAT, TEL-E-KISH, SWE-KEH-NAM, SIT-OO-AH, KO-QUEL-A-CUT, JACK, KEH-KISE-BE-LO, GO-YEH-HN, SAH-PUTSH, WILLIAM.

APPENDIX F

ARTICLE VI — U. S. CONSTITUTION

Debts; supremacy; oath

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

APPENDIX G

EXECUTIVE ORDER OF 1873

PART III. EXECUTIVE ORDERS PERTAINING TO RESERVES

PUYALLUP RESERVE

(Area, 1 square mile: occupied by Muckleshoot, Nisqualli, Puyallup, Skwawksnamish, Stailakoom and five other tribes; treaty December 22, 1854)

(For Executive order of January 10, 1857, see "Nisqually Reserve.")

DEPARTMENT OF THE INTERIOR
Office Indian Affairs, August 26, 1873

Sir: By the second article of the treaty concluded with the Nisqually and other Indians December 26, 1854 (Stat. at Large vol. 10, p. 1132). "a square tract containing two sections, or 1,280 acres, lying on the south side of Commencement Bay," was set apart as a reservation for said Indians, and is known as the Puyallup Reserve.

It appears from the records of this office that Governor Stevens, finding the Indians dissatisfied with the size and location of the reserve, as indicated by said treaty, agreed, at a conference held with them August, 1856, to a readjustment of said reservation, the exterior boundaries of which were surveyed and established by his order. This was done prior to the extension of the lines of the public surveys over the surrounding and adjacent lands. A map of the survey was transmitted by Governor Stevens to this office, under date of December 5, 1856, giving a description of the courses and distances of said exterior boundaries of the reserve,

as taken from the field-notes of the survey on file in the office of superintendent Indian Affairs, Washington Territory.

This reservation, as readjusted and indicated on said map, was set apart for these Indians by Executive order dated January 20, 1857. It was intended to have this reservation bounded on its western side by the waters of Commencement Bay, from the southeasterly extremity of said bay, around northwardly to the northwest corner of the reservation on the southerly shore of Admiralty Inlet. The survey was thought to be made so as to give to the Indians this frontage upon the bay, with free access to the waters thereof. More recent surveys, however, develop the fact that there is land along this shore, and outside the reservation, arising from an error of the surveyor in leaving the line of low-water mark, along the shore of said bay, and running a direct line to the place of beginning.

In a report dated March 20 last, Superintendent Milroy calls attention to this inadvertence; and for the adjustment of the Western boundary of said reservation, so that it may conform to the intentions of those agreeing to the same, as well as for the comfort and wants of the Indians, he recommends the following change, viz: Instead of the direct line to the place of beginning, to follow the shore line, at low-water mark, to the place of beginning.

Inasmuch as the lands proposed to be covered by this change are in part already covered by the grant to the Northern Pacific Railroad Company and by donation claims, I would respectfully recommend that the President be requested to make an order setting apart for the use of these Indians an addition to said Puyallup Reservation as follows, viz: All that portion of section

34, township 21 north, range 3 east in Washington Territory, not already included within the limits of the reservation. This would give them a mile of water frontage directly north of Puyallup River, and free access to the waters of Commencement Bay at that point.

Very respectfully, your obedient servant,

Acting Commissioner,

H. R. CLUM.

APPENDIX H

AMENDMENT XIV — U. S. CONSTITUTION

Section 1. Citizenship rights not to be abridged by states.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any persons of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

